

July 25, 2013

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Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: **Notice of Ex Parte – CG Docket Nos. 03-123 and 10-51**  
**Purple Communications, Inc.**

Dear Ms. Dortch:

On July 23, 2013, John Goodman, Chief Legal Officer for Purple Communications, Inc. (“Purple”), and the undersigned, Purple’s outside counsel, met with the following FCC staff: Kris Monteith, Karen Strauss, Gregory Hlibok, Eliot Greenwald, and Robert Aldrich from the Consumer and Governmental Affairs Bureau; Sean Lev, Diane Holland, Suzanne Tetreault, and Terry Colberg from the Office of General Counsel; Jonathan Chambers and Nicholas Alexander from the Office of Strategic Planning and Policy Analysis; and David Schmidt and Diane Mason from the Office of Managing Director. On July 24, 2013, we also met with Priscilla Delgado Argeris (Legal Advisor to Commissioner Rosenworcel) and Nicholas Degani (Legal Advisor to Commissioner Pai). The discussion focused on the following points:

With respect to the Emergency Petition for Limited Waiver, filed by Purple on July 11, 2013,<sup>1</sup> we reiterated that a temporary waiver of the Commission’s speed-of-answer requirements, with an effective date retroactive to July 11, is necessary for Purple to continue providing IP Relay service following the recent exit of Sorenson Communications (“Sorenson”), AT&T, and Hamilton Relay from the IP Relay market. We emphasized that Purple anticipates an unknowable but significant increase in demand for its IP Relay services as a result of these providers exiting the market, and that Purple’s call volume has been increasing since AT&T ceased offering IP CTS services and Sorenson announced its planned exit on July 8, 2013.<sup>2</sup>

In order to handle the unpredictable shift in daily call volume while also continuing to comply with the speed-of-answer requirements, Purple requires time to calibrate the additional demand for its IP Relay service and recruit, hire, and train additional IP Relay staff. We reiterated that, given the Commission’s strict liability standard for violations of the speed-of-answer rule, the risk of not being

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<sup>1</sup> See Purple’s Emergency Petition for Limited Waiver, CG Docket Nos. 10-51 and 03-123 (filed July 11, 2013).

<sup>2</sup> In the two weeks since Purple filed its Emergency Petition for Limited Waiver, the company has maintained speed-of-answer minimum standards for the increased call volume.

compensated for its IP Relay service is too great, and the potential cost too high, for Purple to continue offering IP Relay absent a temporary, short-term waiver as the market shifts due to the decision of Sorenson, AT&T, and Hamilton Relay to stop providing IP Relay service. We emphasized, however, that Purple is open to considering an alternative waiver approach, such as a sliding scale approach or a waiver for all volume above its current forecasted volumes.

Additionally, we reiterated the points raised in the petition filed by Purple related to iTRS access technologies.<sup>3</sup> In particular, we emphasized that the Commission should clarify that footnote 122 in its June 10, 2013 Order,<sup>4</sup> stating that “[c]alls that are completed using a technology that does not provide both inbound and outbound functionality are not compensable from the TRS Fund,” does not apply when users access IP CTS through web and wireless services. Absent this clarification, Purple will be forced to shut off IP CTS service provided via web or wireless technologies because inbound IP CTS calls over web or wireless technologies cannot be captioned without some intermediary step such as a separate 10-digit number and call flow for this specific function. Moreover, even if such technology existed, automatically captioning the inbound call would seem to violate the Commission’s “default-off” rule.<sup>5</sup>

Finally, we reiterated the points conveyed in Purple’s ex parte letter of June 27, 2013, regarding rate-setting methodology.<sup>6</sup> TRS is a labor intensive business with the largest provider costs being the labor cost associated with communications assistants.<sup>7</sup> Accordingly, and as acknowledged by the Fund Administrator, the current rate of return methodology simply does not make sense in this industry, which is not capital-intensive.

Respectfully submitted,



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<sup>3</sup> See Petition of Purple Communications, Inc. for Expedited Clarification or Partial Reconsideration or, Alternatively, a Waiver, CG Dock Nos. 10-51 and 03-123 (filed July 8, 2013).

<sup>4</sup> *Structure and Practices of the Video Relay Service Program, et al.*, CG Docket Nos. 10-51 and 03-123, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618 (rel. June 10, 2013).

<sup>5</sup> See 47 C.F.R. § 64.604(c)(10)(i).

<sup>6</sup> See Letter from Monica Desai, Counsel for Purple, to Marlene H. Dortch, Secretary, FCC, Notice of Ex Parte, CG Docket Nos. 03-123 and 10-51 (filed June 27, 2013).

<sup>7</sup> See RLSA Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CG Docket Nos. 03-123 and 10-51, at 23 (May 1, 2013).

cc:

Robert Aldrich

Nicholas Alexander

Priscilla Delgado Argeris

Jonathan Chambers

Terry Colberg

Nicholas Degani

Eliot Greenwald

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